

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5218**

58th Legislature  
2003 Regular Session

Passed by the Senate April 21, 2003  
YEAS 42 NAYS 0

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**President of the Senate**

Passed by the House April 10, 2003  
YEAS 95 NAYS 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Milton H. Doumit, Jr.,  
Secretary of the Senate of the  
State of Washington, do hereby  
certify that the attached is  
**SUBSTITUTE SENATE BILL 5218** as  
passed by the Senate and the House  
of Representatives on the dates  
hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5218**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2003 Regular Session

**State of Washington                      58th Legislature                      2003 Regular Session**

**By** Senate Committee on Government Operations & Elections (originally sponsored by Senators Roach, Kastama, Schmidt, Fairley, Stevens, Reardon, Horn, Benton, Keiser, Johnson, Kohl-Welles, Kline and Esser; by request of Secretary of State)

READ FIRST TIME 02/14/03.

1            AN ACT Relating to the timely mailing of absentee and mail ballots;  
2 amending RCW 29.36.270, 29.38.010, and 29.38.020; and creating a new  
3 section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** It is the policy of the state of Washington  
6 that individuals voting absentee and mail ballots receive their ballots  
7 in a timely and consistent manner before each election. Since many  
8 voters in Washington state have come to rely upon absentee and mail  
9 voting, mailing the ballots in a timely manner is critical in order to  
10 maximize participation by every eligible voter.

11            **Sec. 2.** RCW 29.36.270 and 1987 c 54 s 1 are each amended to read  
12 as follows:

13            (1) Except where a recount or litigation under RCW 29.04.030 is  
14 pending, the county auditor shall have sufficient absentee ballots  
15 ~~((ready to mail to))~~ available for absentee voters of that county at  
16 least twenty days before any primary, general election, or special  
17 election. The county auditor must mail absentee ballots to each voter  
18 for whom the county auditor has received a request nineteen days before

1 the primary or election at least eighteen days before the primary or  
2 election. For a request for an absentee ballot received after the  
3 nineteenth day before the primary or election, the county auditor shall  
4 make every effort to mail ballots within one business day, and shall  
5 mail the ballots within two business days.

6 (2) The county auditor shall make every effort to mail ballots to  
7 overseas and service voters earlier than eighteen days before a primary  
8 or election.

9 (3) Each county auditor shall certify to the office of the  
10 secretary of state the dates the ballots prescribed in subsection (1)  
11 of this section were available and mailed.

12 (4) If absentee ballots will not be available or mailed as  
13 prescribed in subsection (1) of this section, the county auditor shall  
14 immediately certify to the office of the secretary of state when  
15 absentee ballots will be available and mailed. Copies of this  
16 certification must be provided to the county canvassing board, the  
17 press, jurisdictions with issues on the ballot in the election, and any  
18 candidates.

19 (5) If absentee ballots were not available or mailed as prescribed  
20 in subsection (1) of this section, for a reason other than a recount or  
21 litigation, the county auditor, in consultation with the certification  
22 and training program of the office of the secretary of state, shall  
23 submit a report to the office of the secretary of state outlining why  
24 the deadline was missed and what corrective actions will be taken in  
25 future elections to ensure that absentee ballots are available and  
26 mailed as prescribed in subsection (1) of this section.

27 (6) Failure to have absentee ballots available and mailed as  
28 prescribed in subsection (1) of this section does not by itself provide  
29 a basis for an election contest or other legal challenge to the results  
30 of a primary, general election, or special election.

31 **Sec. 3.** RCW 29.38.010 and 2001 c 241 s 15 are each amended to read  
32 as follows:

33 The county auditor may designate any precinct having fewer than two  
34 hundred active registered voters at the time of closing of voter  
35 registration as provided in RCW 29.07.160 as a mail ballot precinct.  
36 The county auditor shall notify each registered voter by mail that for  
37 all future primaries and elections the voting in his or her precinct

1 will be by mail ballot only. In determining the number of registered  
2 voters in a precinct for the purposes of this section, persons who are  
3 ongoing absentee voters under RCW 29.36.240 shall not be counted.  
4 Nothing in this section may be construed as altering the vote tallying  
5 requirements of RCW 29.62.090.

6 ~~((As soon as ballots are available, the county auditor shall mail  
7 or deliver a ballot and an envelope, preaddressed to the issuing  
8 officer, to each active registered voter.))~~ The auditor shall mail  
9 each active voter a ballot at least eighteen days before a primary,  
10 general election, or special election. The auditor shall send each  
11 inactive voter either a ballot or an application to receive a ballot at  
12 least eighteen days before a primary, general election, or special  
13 election. The auditor shall determine which of the two is to be sent.  
14 If the inactive voter returns a voted ballot, the ballot shall be  
15 counted and the voter's status restored to active. If the inactive  
16 voter completes and returns an application, a ballot shall be sent and  
17 the voter's status restored to active. The requirements regarding  
18 certification, reporting, and the mailing of overseas and military  
19 ballots in RCW 29.36.270 apply to mail ballot precincts.

20 If the precinct exceeds two hundred registered voters, or the  
21 auditor determines to return to a polling place election environment,  
22 the auditor shall notify each registered voter, by mail, of this and  
23 shall provide the address of the polling place to be used.

24 **Sec. 4.** RCW 29.38.020 and 2001 c 241 s 16 are each amended to read  
25 as follows:

26 At any nonpartisan special election not being held in conjunction  
27 with a state primary or general election, the county, city, town, or  
28 district requesting the election pursuant to RCW 29.13.010 or 29.13.020  
29 may also request that the special election be conducted by mail ballot.  
30 The county auditor may honor the request or may determine that the  
31 election is not to be conducted by mail ballot. The decision of the  
32 county auditor in this regard is final.

33 For all special elections not being held in conjunction with a  
34 state primary or state general election where voting is conducted by  
35 mail ballot, the county auditor shall, not less than ~~((twenty))~~  
36 eighteen days before the date of such election, ~~((make available))~~ mail  
37 to each registered voter a mail ballot. The auditor shall handle

1 inactive voters in the same manner as inactive voters in mail ballot  
2 precincts. The requirements regarding certification, reporting, and  
3 the mailing of overseas and military ballots in RCW 29.36.270 apply to  
4 mail ballot elections.

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